

BEFORE THE STATE OF ALASKA PERSONNEL BOARD

In the Matter of
SARAH PALIN, Governor

Case No. _____

MOTION FOR DETERMINATION OF NO PROBABLE CAUSE

Pursuant to AS § 39.52.320, the Honorable Sarah Palin (the “Governor”) respectfully moves the Personnel Board for a determination of no probable cause to pursue an Ethics Act claim with respect to the allegations before the Personnel Board concerning the replacement of former public safety commissioner Walt Monegan.

I. INTRODUCTION

The Governor commenced this proceeding¹ to secure an independent and lawful review² of the evidence relating to recent allegations concerning her decision to replace former public safety commissioner Walt Monegan in July 2008. The evidence demonstrates that the decision to replace Mr. Monegan had nothing to do with any concerns about the continued employment of state trooper Mike Wooten, an individual who had previously been found by

¹ The Governor maintains that *only* the Personnel Board can investigate, review and adjudicate alleged ethics act violations against the Governor, the Lt. Governor, or the Attorney General.

² This Board has determined that:

When an ethics complaint is filed against the governor, lieutenant governor or attorney general, the complaint is referred to the Personnel Board, which retains Independent Counsel to perform the duties ordinarily performed by the attorney general. Independent Counsel reviews the complaint to determine whether it contains factual allegations which, if true, would constitute a violation of the Act. If so, Independent Counsel is charged with investigating the complaint to determine whether there is probable cause to believe that a violation of the chapter has occurred.

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1 the Division of State Troopers in an official disciplinary review in 2006 to have committed
2 criminal acts of violence. On the contrary, the Governor decided to replace Mr. Monegan
3 based on his refusal to execute her Administration's policy on fiscal and budget matters, a
4 refusal that between late 2007 and the middle of 2008 blossomed into outright insubordination.
5 As detailed below, Mr. Monegan apparently disagreed so strongly with the Governor's fiscal
6 policies that he sought out the Governor's political opponents behind her back to support
7 initiatives that she had previously vetoed, sought out support in Washington, D.C. from the
8 Alaska Congressional delegation for public safety projects the Governor did not believe were in
9 the best interests of the State, and otherwise failed to implement policies that the Governor, as
10 the State's chief executive, had the exclusive constitutional authority to make. The Alaska
11 Constitution provides that the Governor has exclusive and unfettered authority to dismiss
12 department heads such as Mr. Monegan for any reason, and the suggestion that she should have
13 retained Mr. Monegan despite his overt hostility to her Administration's most fundamental
14 policies is as untenable as it is unconstitutional. The Governor presents these issues for
15 resolution with the Board since "[e]thical allegations must be considered independent of
16 politics, policy, and strategy."³

18 Apart from the baselessness of the allegations against the Governor as a factual matter,
19 the allegations would not cause concern under the Ethics Act even if they were true. The
20 Ethics Act prohibits state officials from using state resources to further their personal financial
21 interests. The Governor obviously would have received no financial benefit from the dismissal
22 of Mr. Wooten, who is still employed as a state trooper despite the 2006 administrative findings
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25 ³ *Re Investigation of Ethics Complaint Dated August 3, 2005*, Final Decision p. 3.
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1 against him, and she did not receive any financial benefit from the replacement of Mr.
2 Monegan in 2008 – nor is any such financial benefit alleged. Where the Public Officer’s
3 “financial interest in the matter” appears to be “non-existent” or “speculative” then this Board
4 has traditionally dismissed the complaint.⁴ To the extent the Governor is alleged to have
5 sought a non-financial personal benefit from an attempt to have Mr. Wooten dismissed, that
6 benefit would have been a benefit shared generally with the public – namely, the benefit of a
7 trooper force free from rogue officers who have been found guilty of acts of violence and
8 recklessness against the public. The Ethics Act specifically permits state officials to act in such
9 circumstances, and thus even if the allegations were true – which they assuredly are not – there
10 would be no probable cause to pursue a claim in this matter.

11
12 For these reasons and those discussed more fully below, the Governor respectfully
13 requests a finding that there is no probable cause to support the allegations concerning her
14 replacement of Mr. Monegan and that the complaint be dismissed. The Governor further posits
15 and reaffirms the very principles that this Board has already adopted for itself and should be
16 applied here:

17 [T]hose responsible for interpreting and applying the Ethics Act should guard
18 against frivolous complaints and attempts to use the Act as a political or strategic
19 tool to attack policy decisions with which they disagree, but which are not
20 unethical. This is especially so at the highest levels of government. If not
21 administered carefully, the Ethics Act could create a system that harms the public
22 by distracting government officials from their public duties in order to respond to
23 complaints and investigations.

24 ⁴ *In Re Investigation of Ethics Complaint Dated August 3, 2005*, Final Decision p. 1 (“the complaint should be
dismissed because Public Officer’s financial interest in the matter appeared non-existent or too speculative to give
rise to a violation of the Act”).

1 *Re Investigation of Ethics Complaint Dated August 3, 2005*, Final Decision p. 3. At its core,
2 Monegan’s allegations of unethical conduct by the Governor is in fact a “political or strategic
3 tool” he is using to “attack policy decisions” with which he disagreed, namely, budget priorities
4 for the DPS. The facts supporting this are laid bare below.

5 **II. ARGUMENT**

6 **A. THERE IS NO PROBABLE CAUSE FOR PURSUING AN ETHICS ACT
7 CLAIM RELATING TO THE REPLACEMENT OF WALT MONEGAN AS
8 PUBLIC SAFETY COMMISSIONER.**

9 **1. THE EVIDENCE DEMONSTRATES THAT NEITHER THE GOVERNOR NOR
10 ANYONE ACTING AT HER DIRECTION PRESSURED MR. MONEGAN TO
11 TERMINATE MR. WOOTEN.**

12 On August 30, 2008, Mr. Monegan told the *Anchorage Daily News* that, “[f]or the
13 record, no one ever said fire Wooten. Not the governor. Not Todd [Palin]. Not any of the
14 other staff...”⁵ That statement constitutes a complete recantation of Mr. Monegan’s prior
15 allegations and alone suffices to demonstrate that no probable cause exists to pursue an Ethics
16 Act claim on the allegations reported in the media in recent weeks. This conclusion is
17 underscored by documents that have been reported publicly. The one communication between
18 the Governor and Mr. Monegan that has been referenced publicly in connection with claims
19 that the Governor’s office improperly pressured Mr. Monegan, for example, provides no
20 support for such a claim. That communication came on July 17, 2007, when the Governor
21 asked Mr. Monegan to comment on a bill sponsored by Representative Les Gara that would
22 have banned the sale of guns to individuals who had been judicially determined to be a threat to
23 public safety. The Governor explained that the bill brought to mind her “ex brother-in-law, the

24 ⁵ Lisa Deemer, ANCHORAGE DAILY NEWS, Aug. 30, 2008 (available at
25 <http://www.adn.com/sarahpalin/story/510080.html>).
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1 trooper, who threatened to kill my dad yet was not even reprimanded by his bosses and still to
2 this day carries a gun, of course.” (PB0001.) The Governor went on to explain:

3 Remember when that death threat was reported, and follow-on
4 threats from Mike that he was going to ‘bring Sarah and her
5 family down’ - instead of any reprimand WE were told by
6 trooper union personnel that we’d be sued if we talked about
7 those threats. Amazing. And he’s still a trooper, and he still
8 carries a gun, and he still tells anyone who will listen that he will
9 ‘never work for that b*itch’ (me) because he has such anger and
10 distain towards my family.

11 So consistency is needed here. No one’s above the law. If the law
12 needs to be changed to not allow access to guns for people
13 threatening to kill someone, it must apply to everyone.

14 (Exh. A, PB0001.)

15 Far from reflecting a request that action be taken against Mr. Wooten, that
16 communication reflects the Governor’s recognition that the Wooten issue had been resolved in
17 the past, and that in a world where a renegade trooper is allowed to remain on the job with
18 access to his firearm, consistency requires reciprocal treatment of firearms regulations that
19 apply to ordinary citizens. The fact that the Governor shared her personal experiences with a
20 violent and abusive state trooper as an example of the public safety risks implicated by
21 Representative Gara’s proposed legislation cannot reasonably be interpreted as pressure on Mr.
22 Monegan to terminate Mr. Wooten. Further, it is both lawful and ethical for a publicly elected
23 official to rely on personal life experiences when evaluating public policy. Indeed, such life
24 experiences are often used as benchmarks for public officials.

25 Because there is no evidentiary basis to conclude that the Governor or any member of
26 the Governor’s office pressured Mr. Monegan to fire Mr. Wooten, there is no probable cause
for initiating an investigation.

1 **B. THE EVIDENCE UNAMBIGUOUSLY SHOWS THAT THE GOVERNOR REPLACED**
2 **MR. MONEGAN BECAUSE OF AN INTOLERABLE PATTERN OF**
3 **INSUBORDINATION ON BUDGET AND OTHER KEY POLICY ISSUES.**

4 The evidentiary record further demonstrates that the reason Mr. Monegan was replaced
5 by the Governor was an escalating pattern of insubordination and refusal to implement
6 Administration policy on fiscal and budget matters, which reached a crescendo in July 2008.
7 As a political appointee who served at the pleasure of the Governor, Mr. Monegan was
8 appropriately replaced under these circumstances.

9 **1. *Mr. Monegan Refused To Honor The Governor's Budget Priorities And***
10 ***Consistently Subverted Formal Departmental Channels To Pursue His***
11 ***Own Initiatives That Were Inconsistent With Administration Policy.***

12 Mr. Monegan's refusal to pursue the Governor's policy objectives in the Department of
13 Public Safety surfaced as early as October 2007, when DPS was involved in formulating a 10-
14 year strategic plan. That planning process was intended to be closely integrated with other
15 state-wide planning and budgeting processes coordinated by the Office of Management and
16 Budget (OMB), the agency tasked with overseeing interdepartmental resource allocation and
17 expenditures. From the beginning, however, Mr. Monegan made clear that "[r]ather than plan
18 to a budget, we want to budget to a plan." (Exh. C, PB0003.) OMB Director Karen Rehfeld
19 was "stunned" at Monegan's approach. (Exh. B, PB0002). In an October 18, 2007
20 communication to senior budget officials, Mr. Monegan acknowledged that this approach was
21 at odds with the Governor's budget priorities, stating that he "understands that funds can and
22 will become tight(er)." (Exh. C, PB0003.) In response, OMB Director Karen Rehfeld made
23 very clear that the Governor "does not want to increase the budget/position count -- this is
24 going to be a real balancing act." (Exh. C, PB0003.) And, with that, the stage was set for an

1 internal disagreement over budget priorities that would last and escalate for the next eight
2 months.

3 Notwithstanding the Administration's concerns, Monegan unilaterally orchestrated a
4 press conference on December 6, 2007 pushing "his" budget plan, along with Sen. Hollis
5 French. By early January 2008, Mr. Monegan's vision for expanding the DPS and its operating
6 budget came into more direct conflict with that of the Administration. Increasingly dissatisfied
7 with the Administration's budget priorities and the formal interdepartmental budgeting process,
8 Mr. Monegan again struck out on his own. On January 29, 2008, Randy Ruaro, then-special
9 assistant to the Governor, reported to Ms. Rehfeld that Mr. Monegan was circumventing the
10 normal interdepartmental channels for making budget requests. Among other things, Mr.
11 Ruaro observed that "the more we can redirect Walt [Monegan] and Audie [Holloway of DPS]
12 to work through Dan [Spencer] [DPS, Administrative Services Director] the better. I get the
13 sense that because Dan voices an opinion that may not be exactly what they want to hear, they
14 start going around him." (Exh. D, PB0005.) In an effort to encourage Mr. Monegan to work
15 within the formal budgeting process, Ms. Rehfeld requested that he submit formal estimates to
16 OMB for DPS projects, cautioning Mr. Monegan that "there are significant challenges already
17 with keeping to the governor's overall spending goals." (Exh. E, PB0010.) Ignoring this
18 directive from the state's top budget official, Mr. Monegan quipped that he only wanted "to
19 fight just one of you at a time... ok?" (Exh. E, PB0010.) Sensing that his actions were at odds
20 with Administration objectives, Mr. Monegan asked Ms. Rehfeld if he or DPS "caused you
21 concern." Rehfeld responded, "yes," and pointedly asked: "What can we reasonably do to
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1 tackle some of these very difficult issues and still maintain the budget discipline the governor is
2 committed to?” (Exh. E, PB0009.)

3 Despite the Administration’s repeated calls for budget discipline in the major state
4 agencies, Mr. Monegan continued to press his own expansive agenda without regard for either
5 the formal budgeting process or the Governor’s clear policy priorities. In February 2008, for
6 example, Mr. Monegan released a letter to the Governor supporting a \$1.8 million increase in
7 the state budget for the Anchorage Community Land Trust, a line item the Governor previously
8 had vetoed – an act of public insubordination that is almost unbelievable coming from a
9 political appointee. (Exh. F, PB0012.) Ms. Rehfeld was “stunned and amazed” and
10 subsequently admonished Monegan for sending the letter, explaining that this type of public
11 statement by a sitting cabinet member would likely frustrate the Administration’s efforts to
12 achieve its budget objectives with the Legislature. (Exh. F, PB0012.) As Ms. Rehfeld
13 explained: “I expect we will see your letter appear as justification for funding to be included in
14 the capital budget as the legislature makes changes to our budget, which is a bit awkward.
15 Bottom line is, let’s talk about this rather than writing letters to the governor.” (Exh. G,
16 PB0014.)

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18 Mr. Monegan’s February 2008 letter on the Anchorage Community Land Trust issue
19 only highlighted growing concerns about his willingness to coordinate his department agenda
20 with that of the Administration. In March 2008, Mr. Ruaro and Ms. Rehfeld agreed that it was
21 critical for the departments to coordinate their agendas internally before making any public
22 announcements: “I have spoken to Walt, [DPS Deputy Commissioner] John Glass, and Audie
23 [Holloway] about working through issues *internally first* several times. Mike Nizich has
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1 spoken with them, and COS has spoken directly with . . . Commissioner [Monegan].”
2 Referring to DPS, Ruaro explained that “[t]hey seem to just ***not want to accept that concept.***”
3 (Exh. G, PB0013) (emphasis added).

4 OMB Director Rehfeld voiced similar concerns about Mr. Monegan’s efforts to increase
5 trooper recruitment without first coordinating with the Division of Personnel, stating that she
6 “wouldn’t want DPS getting out in front without knowing how this impacts the other agencies .
7 . . given that the governor is not inclined to want to ‘grow’ government.” (Exh. H, PB0015.)
8 In response, Mr. Ruaro explained that this type of unilateral action by Mr. Monegan had “been
9 the problem for the last 6 months,” and that ***he did not believe DPS was “working with anyone***
10 ***but themselves and maybe Megan Peters from Channel 2 and Hollis French*** when it comes
11 to pay raises and the need for more troopers.” (Exh. H, PB0015) (emphasis added).] Mr.
12 Ruaro further noted his repeated efforts to have Mr. Monegan coordinate DPS planning and
13 budgeting activities with the other departments had come to naught: “I have told them 4-5
14 times to work with OMB first. Mike [Nizich] talked to them as well.” (Exh. H, PB0015.)

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16 Again in May 2008, state budget officials worried that Mr. Monegan would publicly
17 release a new DPS study to gain public support for his initiative to add “a net 25 new troopers
18 each year for 5 years” without first discussing the budget implications of such a proposal with
19 the Administration. (Exh. I, PB0017-19.) Mr. Ruaro noted that this type of initiative “cannot
20 be done in isolation.” (Exh. I, PB0018.) Ms. Rehfeld agreed: “I have told Walt, Audie, and
21 John Glass ***not to work this way. It doesn’t seem to sink in very well.*** Is working through the
22 recruitment and retention group, then OMB and getting Governor approval on budget issues
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1 BEFORE going public a topic that could be mentioned at the next cabinet meeting without
2 directing it only at DPS?" (Exh. I, PB0018.) (emphasis added).

3 **2. Mr. Monegan Unilaterally Contacted the Alaska Congressional**
4 **Delegation To Secure Additional Funds For Pet DPS Projects Not**
5 **Approved By The Administration.**

6 On June 26, 2008, Mr. Ruaro reported that "Walt [Monegan] and DPS want to make a
7 trip back to DC....to see if the [Alaska Congressional] delegation could provide assistance to
8 get funding" for a new statewide sexual assault initiative run by his Department of Public
9 Safety at an estimated cost of \$10 million to \$20 million dollars per year. (Exh. J, PB0020.)
10 According to Ruaro, the Governor previously had made clear that she "did not want this to
11 move forward until after DPS had presented her all the estimated costs and a plan for how it
12 would be funded." (Exh. J, PB0020.) Ms. Rehfeld was incredulous:

13 *This is exactly the type of program that needs to be discussed*
14 *internally* - If the governor decides that we should go down this
15 road and that we understand the impact on the other agencies
16 involved, and the cost of sex offender treatment or whatever else
17 needs to go along with this - we would be considering this in our
18 budget for FY2010 and requesting federal earmark dollars to
19 help. *Is Walt trying to seek existing competitive grant funds*
20 *through a federal agency for this project?*

21 (Exh. J, PB0020) (emphasis added).

22 On July 7, 2008, Mr. Ruaro reported to a group within the Office of the Governor,
23 including the Governor's special counsel John Katz, that Mr. Monegan did not have "OMB's
24 approval to pursue this plan" and that, nevertheless, Mr. Monegan had made the plan "at least
25 partially public by talking to the delegation on previous trips (Liz Cannell) and reps of certain
26 native organizations." (Exh. M, PB0027.) Mr. Katz warned of "two problems" with Mr.

Monegan's proposed Washington trip :

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1 The first is that we don't have internal alignment, and that's
2 always a prerequisite to bringing an issue to DC. Second, a
3 request for funding at this time is out of sequence with our other
4 appropriations requests and could put a strain on the evolving
5 relationship between the Governor and Senator Stevens.

6 (Exh. M, PB0026.) By July 2008, these twin problems had become synonymous with Mr.
7 Monegan's work at the Department. The proposed Washington trip proved to be the last straw.
8 On July 11, 2008, following eight months of insubordination on the budget issue and hard on
9 the heels of his planned trip to Washington, Mr. Monegan was terminated.

10 At the end of the day, even Mr. Monegan himself recognized that his rogue mentality
11 ultimately prevented him from fully integrating into the Governor's cabinet. In a farewell
12 email following his dismissal, Monegan encouraged his colleagues to pursue more productive
13 behaviors in their continued service of Alaska and the Governor:

14 [W]e all know the Governor is swamped in a myriad of demands
15 and primarily focused on AGIA, but I urge all of you to seek
16 those few minutes to communicate your issues with her. All
17 relationships are based upon communications; I have known and
18 said this for years, yet I stood back because I hadn't wanted to
19 add to her concerns. For anyone to lead effectively they must
20 have the support of their team, and *I had waited too long outside
21 her door for her to believe that I supported her.* Please, choose
22 a different path.

23 (Exh. N, PB0030) (emphasis added). Accordingly, Monegan well knew that he brought on his
24 own problems and he took responsibility for that on his last day. At no time did Monegan ever
25 assert that he was "pressured" to act unethically. At no time did Monegan ever report an ethics
26 violation, as mandated by law, for any executive branch employee who believes an unethical
act has been committed. As the top law enforcement officer of the state, Monegan was well
aware of his legal duty in that regard.

1 As this record makes clear, there was nothing improper about replacing Mr. Monegan
2 as public safety commissioner. As a political appointee, Mr. Monegan served at the pleasure of
3 the Governor and was duty-bound to execute the Governor's policy objectives. After eight
4 months of repeatedly ignoring the Governor's budget priorities, making public statements that
5 directly challenged the Governor's policy agenda and taking numerous unilateral actions in
6 conflict with the Governor in support of his own policy agenda, his replacement in July 2008
7 should have come as no surprise and cannot now seriously be questioned.

8 **C. THE ALLEGATIONS DO NOT SUPPORT AN ETHICS ACT CLAIM AS**
9 **A MATTER OF LAW.**

10 Wholly apart from the lack of any factual foundation for the allegations concerning the
11 Governor's reassignment of Mr. Monegan, those allegations fall outside the rubric of the Ethics
12 Act and thus cannot support a finding of probable cause as a matter of law. Under the Ethics
13 Act, only evidence of a knowing and material violation of a specific provision of the Act can
14 provide probable cause for a proceeding; "[a]n appearance of impropriety does not establish
15 that an ethical violation exists." 9 AAC § 52.010. Yet the alleged conduct does not fit within
16 any of the enumerated categories of conduct prohibited by the Act. Thus, as explained below,
17 there is no probable cause as a matter of law and this proceeding should be closed forthwith,
18 with no sanction imposed.

19 The Ethics Act is primarily focused on prohibiting public officials from using their
20 positions to enrich themselves or their friends or family members. For example, the Ethics Act
21 prohibits public officials from (a) seeking employment or contracts through the use of their
22 official positions, (b) receiving compensation for the performance of their official duties from
23 private parties, (c) using state time, property, equipment, or other facilities to benefit their
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1 financial interests, (d) taking or withholding official action in order to affect a matter in which
2 the official has a financial interest, and (e) attempting to benefit a personal financial interest
3 through coercion of a subordinate or through a requirement that another public official perform
4 services for the private benefit of the public official. See AS § 39.52.120. The regulations
5 implementing the Ethics Act underscore the Act's focus on transactions that result in a financial
6 benefit to a public official or his or her family or friends; the topics addressed by those
7 regulations include "Gifts," 9 AAC § 52.060; "State grants, contracts, leases, and loans," *id.* §
8 52.080; and "Outside employment or service," *id.* § 52.090, among others. There has been no
9 suggestion – nor could there be – that the Governor's reassignment of Mr. Monegan enriched
10 her, her family, or her friends in any way. That alone is sufficient to conclude that there is no
11 probable cause to pursue a complaint against the Governor in this matter. See, e.g., 1994
12 Alaska AG LEXIS 37 (Jan. 1, 1994) (no Ethics Act violation when public officer sat on board
13 of nonprofit that advocated particular positions before public officer, since public officer stood
14 to derive no financial benefit).

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16 The only other theory under which the Ethics Act could possibly apply, therefore, is
17 that, in reassigning Mr. Monegan, the Governor "secure[d] or grant[ed] unwarranted benefits or
18 treatment" for some person, or "[took] or withh[e]ld official action in order to affect a matter in
19 which [she] has a personal . . . interest." AS §§ 39.52.120(a), (b)(4). But the text of the Act
20 itself makes clear that that theory is not viable either. The Ethics Act provides that there is no
21 substantial impropriety if a public officer such as the Governor takes an action that affects a
22 personal interest "of a type that is possessed generally by the public or a large class of persons
23 to which [she] belongs." *Id.* § 39.52.110(b)(1). The allegation that is the basis of the Board's

1 investigation is that the Governor, concerned about threats of violence directed at her father,
2 sister, and nephew by a state trooper, asked the public safety commissioner directly or through
3 her staff or husband to dismiss or discipline the trooper. Even had that happened – and the
4 former commissioner himself has admitted it did not – the Governor’s interest in being free
5 from threatened and actual violence is a quintessential example of an interest “that is possessed
6 generally by the public.”

7 As an initial matter, it is an established fact that the trooper at the heart of the public
8 allegations – Mike Wooten – threatened the public safety. On March 1, 2006, Colonel Julia
9 Grimes, the Director of the Division of State Troopers, issued a report finding that Mr. Wooten
10 had used a Taser stun-gun device on his ten-year-old stepson (the Governor’s nephew), had
11 drunk beer both before and during the operation of his marked State Trooper patrol car, and had
12 illegally shot a cow moose without a permit. (See Letter from Col. Julia P. Grimes, Division of
13 Alaska State Troopers, dated March 1, 2006 (“Grimes Report”) (attached at Exh. P). Colonel
14 Grimes’s official report on behalf of the Division of State Troopers concluded that Mr.
15 Wooten’s misconduct was “grave” and “demonstrate[d his] lack of judgment and a profound
16 disrespect for the responsibilities of a law enforcement officer.” (*Id.*) While two of Colonel
17 Grimes’s findings related to conduct involving the Governor’s extended family, one did not.
18 The Grimes Report recounted an incident involving Adrian and Marilyn Lane, who are not
19 related to the Governor. As Colonel Grimes reported:

21 In June/July 2004, you stopped at the home of acquaintances of
22 yours, Adrian and Marilyn Lane. They live in your same
23 subdivision and on one occasion you pulled your marked trooper
24 vehicle into their driveway. According to the statement of
25 Adrian Lane, you walked into their garage, engaged in some
26 social conversation and then went to a refrigerator located in his

1 garage and helped yourself to a beer. Mr. Lane stated that he saw
2 you drink the first beer and then state that you had to go, but that
3 before you left you helped yourself to a second beer. He said you
opened the beer and got into your marked trooper vehicle
carrying the beer and drove away.

4 (*Id.*) Reviewing the totality of the circumstances, the Grimes Report noted that Mr. Wooten's
5 "unacceptable conduct appears to have continued and even escalated," and "clearly indicates a
6 serious and concentrated pattern of unacceptable and at times, illegal activity occurring over a
7 lengthy period." (*Id.*) Noting that "a civilian investigated under similar circumstances would
8 have received criminal sanctions," Colonel Grimes imposed a suspension that was "meant to be
9 a last chance to take corrective action." (*Id.*) There is, in short, no question that Mr. Wooten
10 represented a public safety hazard and had been found in a formal administrative review to
11 have committed criminal acts. For purposes of the Ethics Act, the question is whether, had the
12 Governor in fact sought the ouster of such a renegade trooper, doing so would have improperly
13 benefited her personal interest (because her relatives were among the people threatened by the
14 trooper), on the one hand, or would have benefited the interest in safety that is shared by the
15 public generally. The Grimes Report itself answers that question. In punishing Mr. Wooten for
16 tasering his stepson, the Grimes Report noted that:

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19 This event is not mitigated by the fact that it occurred within your
20 immediate family. In addition to any expectation he had as a
21 member of your household, ***he is also a member of the general
public*** and as such, will likely now have a diminished view of the
department and you as a representative of the department.

22 *Id.* (emphasis added).

23 There is no question that effective trooper discipline is a matter of public importance as
24 opposed to a personal interest. Taxpayers paid \$700,000 in settlements for three separate

1 incidents involving Trooper Eric Spitzer, including one where a jury found he misused his taser
2 to torture a handcuffed suspect, and hundreds of thousands more in legal defense for these three
3 cases and a fourth where a jury acquitted a him. Yet the Alaska State Troopers did not
4 discipline Spitzer; in fact, they promoted him to an undercover unit.⁶ Taxpayers paid another
5 \$310,000 to settle a lawsuit stemming from an incident where Trooper Jesse Osborn killed a
6 disabled man after shooting him five times. He was still on the job after previous incidents of
7 pepper-spraying and roughing up suspects; even for the shooting, Osborn faced no discipline
8 after another trooper on the scene changed his original story that he felt no danger from the
9 suspect.⁷ Meanwhile, the state is still paying lawyers to defend litigation stemming from the
10 Osborn shooting.⁸ In yet another example, troopers ignored complaints of an Aniak Native
11 woman that Trooper Daniel L. Scott was verbally harassing her in 2002 and 2003; taxpayers
12 ended up having to settle a lawsuit resulting from Scott's rape of that woman (and four others)
13 in 2004.⁹

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15 The Palin family was not the only group of people concerned about Trooper Wooten's
16 behavior. According to the Grimes report, Trooper Wooten had been disciplined a dozen times
17 before he was the subject of a Domestic Violence Protective Order from Molly McCann.
18 Imagine a scenario in which Governor Palin was personally aware of a trooper with Wooten's
19 disciplinary record who had engaged in violent conduct against third parties unrelated to Palin.
20 It would be regarded as a scandalous dereliction of her duties as governor if she did *not* have
21 staffers raise concerns with the Department of Public Safety and instead held her own counsel.
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23 ⁶ Megan Baldino, *Reaction to excessive force settlement*, KTUU-2, Sep. 27, 2007.

24 ⁷ Lisa Demer, *58 seconds to death*, Anchorage Daily News, Apr. 18, 2004.

25 ⁸ Lisa Demer, *Appeals court hears suit against former trooper*, Anchorage Daily News, Aug. 7, 2008.

26 ⁹ Tatoboline Brant & Megan Holland, *Trooper assault lawsuit settled*, Anchorage Daily News, Jun. 3, 2005.

1 It cannot possibly be the case that conduct that would be laudable suddenly becomes an ethics
2 violation simply because it also incidentally relates to the governor's family.

3 The Wooten incident was simply another case where the troopers' disciplinary system
4 placed themselves above the law at the cost of the public interest and the public's safety. The
5 governor, her husband, and her staff, had every right to raise the Wooten example with the
6 Department of Public Safety as an example of trooper mismanagement; they had every right to
7 ask the Department to investigate what could be done about such rogue troopers tainting the
8 reputations of the vast majority of well-behaved troopers. Further, the allegation by Monegan
9 that raising any complaints about a trooper to him was unethical "pressure" is non-sense in
10 light of Monegan's statutory duty to receive complaints about Troopers.¹⁰

11 Beyond the obvious public interest in a well-disciplined trooper force, the Palin
12 Administration's e-mails show that their concern with Wooten was tied to the effect that poor
13 discipline had on the statewide reputation of the troopers. That poor reputation made it harder
14 to recruit troopers, which in turn raised costs to taxpayers while reducing the level of service
15 that the troopers provided. In short, even if a governor had asked a public safety commissioner
16 to terminate a state trooper based on documented acts of violence and other improper conduct
17 directed to his or her family and to the general public, that would not violate the Ethics Act
18 because the public generally shares a common interest in public order and safety. Nothing
19 about pursuing that course of conduct could, as a matter of law, constitute conferring an
20

21
22
23 ¹⁰ See <http://www.law.state.ak.us/departments/faq.html#police> ("I want to complain about my local police
24 department or a state trooper. Who can help me? A. Complaints against a state trooper must be filed in writing
25 with the Juneau Office of the Commissioner"). Monegan apparently did not recognize his statutory duty.

1 “unwarranted benefit” on an individual or furthering a “personal interest” within the meaning
2 of the Personnel Act. For that additional reason, the Personnel Board should enter a finding
3 that there is no probable cause to pursue an Ethics Act claim based on the publicly reported
4 allegations concerning the replacement of the former public safety commissioner.

5 **III. CONCLUSION**

6 For the foregoing reasons, Governor Palin respectfully requests that the Personnel
7 Board grant her motion and enter an order finding that there is no probable cause to pursue an
8 Ethics Act claim in these circumstances.

9
10 Dated: September 15, 2008

BY: 

Thomas V. Van Flein, Esq.
Counsel for Governor Sarah Palin

*Clapp, Peterson, Van Flein,
Tiemessen & Thorsness, LLC
711 H Street, Suite 620
Anchorage, Alaska 99501*

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Certificate of Service

1 I hereby certify that on the 15th day of September 2008, a copy of the foregoing document was served by mail on
2 the following:

3 Timothy Petumenos, Esq.
4 Birch, Horton, Bittner, and Cherot
5 1127 W. 7th Ave.
6 Anchorage, Alaska 99501

FAX 276-3680

7 Personnel Board, Anchorage (Hand Delivery)
8 Debra English, Chair
9 Department of Administration, Division of Personnel & Labor Relations
10 619 E. Ship Creek Avenue, Suite 311
11 Anchorage, Alaska 99501

12 Personnel Board, Juneau
13 PO Box 110201
14 Juneau, AK 99811-0201

(fax) 465-6624

15 Talis Colberg, Esq., Attorney General
16 Michael Barnhill, Esq., Assistant Attorney General
17 1031 W. Fourth Avenue, Suite 200
18 Anchorage, AK. 99501

(via Fax)

19 
20 Chelsea Green

21 Clapp, Peterson, Van Flein,
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25 (907) 272-9272 fax (907) 272-9586

From: Perry, Kristina Y (GOV)
Sent: Tuesday, July 17, 2007 12:43 PM
To: Wheeler, Gary R (GOV); Cockrell, Robert A (GOV)
Subject: FW: Gara's gun issue

FYI.

-----Original Message-----

From: Palin, Sarah (GOV sponsored)
Sent: Tuesday, July 17, 2007 6:16 AM
To: Monegan, Walt C (DPS)
Cc: Colberg, Talis J (LAW); 'fek9wnr@yahoo.com'
Subject: Gara's gun issue

Walt- we'll ask you to chime in on Gara's proposal re: the gun issue in today's ADN when we all can sit down to discuss the issue.

The first thought that hit me when reading Gara's quote about people not being able to buy guns when they're threatening to kill someone went to my ex brother-in-law, the trooper, who threatened to kill my dad yet was not even reprimanded by his bosses and still to this day carries a gun, of course. We can't have double standards. Remember when that death threat was reported, and follow-on threats from Mike that he was going to "bring Sarah and her family down" - instead of any reprimand WE were told by trooper union personnel that we'd be sued if we talked about those threats. Amazing. And he's still a trooper, and he still carries a gun, and he still tells anyone who will listen that he will "never work for that b*itch" (me) because he has such anger and distain towards my family.

So consistency is needed here. No one's above the law. If the law needs to be changed to not allow access to guns for people threatening to kill someone, it must apply to everyone.

Hopefully we'll all meet on this soon, as Gara will be expecting a response soon.

From: Rehfeld, Karen J (GOV)
Sent: Tuesday, October 09, 2007 7:56 PM
To: Ruaro, Randall P (GOV); JSJ Test2
Subject: RE: DPS Plan and Request for Governor's Signature

I am stunned that they would ask the governor to "sign" anything! I really want to see what they have broken out in terms of "must haves" in FY2009 and what the out years look like – I also do not know where/how the governor feels about the VPSO's becoming state employees or the legislation to create the tiered police officer – this is all part of the budget process SO, I guess it is good they are putting these options out there, but NO, I would not recommend the governor commit to anything - KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Tuesday, October 09, 2007 3:23 PM
To: Rehfeld, Karen J (GOV); Tibbles, Michael A (GOV)
Subject: DPS Plan and Request for Governor's Signature

Karen / Mike:

DPS has asked the Governor to review and sign their "10 year plan". I am reading it now. I am a bit concerned about DPS pushing the Governor to quickly accept and approve of plans, ideas, budget proposals, etc. Commissioner Monegan may be planning on discussing ideas such as a new tiered police system and state employee status for VPSO's at AFN, before the Governor has fully reviewed and approved them.

Any thoughts?

Randy

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PB0002

From: Rehfeld, Karen J (GOV)
Sent: Thursday, October 18, 2007 12:13 PM
To: Monegan, Walt C (DPS)
Subject: RE: DPS 10 Year Plan / Meeting on October 25

Thanks Walt - I really appreciate what you are trying to do - and, there is nothing I like better than a plan! I have to tell you though that the governor has been pretty clear that she does not want to increase the budget/position count - this is going to be a real balancing act! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov
-----Original Message-----
From: Monegan, Walt C (DPS)
Sent: Thursday, October 18, 2007 7:12 AM
To: Rehfeld, Karen J (GOV)
Subject: RE: DPS 10 Year Plan / Meeting on October 25

Please understand that this a 'map' or direction that we are intending to take AST. Rather than plan to a budget, we want to budget to a plan. In this way we can begin a forward lean in the command staff, now and for future commanders. We want to become proactive and less reactive or we will never get ahead or be properly prepared for the future. We understand that funds can and will become tight(er), but with a 'course' set, we still have goals and direction and will not lose our way by delays. Consider this a promise by us, not a contract for you.
Walt

-----Original Message-----
From: "Rehfeld, Karen J (GOV)" <karen.rehfeld@alaska.gov>
To: "Ruaro, Randall P (GOV)" <randall.ruaro@alaska.gov>; "Rice, Lauren (DPS)" <lauren.rice@alaska.gov>
Cc: "Holloway, Audie E (DPS)" <audie.holloway@alaska.gov>; "dan.spencer@alaska.gov" <dan.spencer@alaska.gov>; "Monegan, Walt C (DPS)" <walt.monegan@alaska.gov>; "Spencer, Kari L (GOV)" <kari.spencer@alaska.gov>
Sent: 10/17/2007 5:36 PM
Subject: RE: DPS 10 Year Plan / Meeting on October 25

Hi Randy - I'll have Kari set this up and confirm with you - thanks! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Wednesday, October 17, 2007 5:23 PM

1

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PAGE 1 OF 2

PB0003

To: Rice, Lauren (DPS)
Cc: Holloway, Audie E (DPS); dan.spencer@alaska.gov; Rehfeld, Karen J (GOV); Monegan, Walt
C (DPS)
Subject: DPS 10 Year Plan / Meeting on October 25

Everyone:

I just received confirmation that we can set this on the calendar for the COS for some time on the 25th. I suggest trying for 3:00 pm. Can you let me know if this works for you and then I will have to confirm with the COS on Monday.

Thanks

Randy

From: Ruaro, Randall P (GOV)
Sent: Tuesday, January 29, 2008 12:02 PM
To: Rehfeld, Karen J (GOV)
Subject: RE: VPSO Task Force Releases Report to the Senate

That's a good idea. Actually, the more we can redirect Walt and Audie to work through Dan the better. I get the sense that because Dan voices an opinion that may not be exactly what they want to hear, they start going around him.

Randy

From: Rehfeld, Karen J (GOV)
Sent: Tuesday, January 29, 2008 7:39 AM
To: Ruaro, Randall P (GOV)
Subject: RE: VPSO Task Force Releases Report to the Senate

You have your hands full! Perhaps I should ask Mary to follow up with Dan and see if these guys are going to be pushing a budget amendment for VPSO or the 5 in 5 plan – then we can figure out where to go next. Does that work? KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Monday, January 28, 2008 7:18 PM
To: Rehfeld, Karen J (GOV)
Subject: RE: VPSO Task Force Releases Report to the Senate

Neither do I. I know you are swamped, but should we see about a meeting this Friday to talk about this? And thanks for sitting through the meeting with AMHS. It has taken hours of hours of time to get them to this point, and then they prepare a presentation that leaves out so many of the good points they can make to justify what they are doing. I don't have time to write everything for them. They do fine if Falvey and Beedle get to testify. If it is just Dennis, then we get in a bit of trouble.

Randy

From: Rehfeld, Karen J (GOV)
Sent: Mon 1/28/2008 7:05 PM
To: Ruaro, Randall P (GOV)
Subject: RE: VPSO Task Force Releases Report to the Senate

VPSO's don't show up in our budget – they are hired by the non-profit/corporations, I believe – so, not sure how

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PB0005

all of this works - KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Monday, January 28, 2008 7:01 PM
To: Rehfeld, Karen J (GOV)
Subject: RE: VPSO Task Force Releases Report to the Senate

Karen:

Or, another possibility would be to scale back the number of VPSO's in favor of some of the temporary DPS trooper positions that would be specializing in sexual assault cases for a few years under Audie's plan to combat sexual assault.

Randy

From: Rehfeld, Karen J (GOV)
Sent: Mon 1/28/2008 6:02 PM
To: Ruaro, Randall P (GOV)
Subject: RE: VPSO Task Force Releases Report to the Senate

Does public safety have a schedule that shows the costs of implementing the recommendations? KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Monday, January 28, 2008 5:35 PM
To: Rehfeld, Karen J (GOV)
Subject: FW: VPSO Task Force Releases Report to the Senate

Karen:

FYI.

From: Leschper, Beth (GOV)
Sent: Monday, January 28, 2008 5:30 PM
To: Ruaro, Randall P (GOV)
Subject: FW: VPSO Task Force Releases Report to the Senate

In case you didn't see this.

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PB0006

Beth

From: Jeff Turner [mailto:Jeff_Turner@legis.state.ak.us]
Sent: Monday, January 28, 2008 5:18 PM
Subject: VPSO Task Force Releases Report to the Senate

Alaska Legislature
VPSO Task Force
Senator Donald Olson
Chair

For Immediate Release: January 28, 2008

VPSO Task Force Releases Report to the Senate

(ANCHORAGE) - The VPSO Task Force has completed its report to the Senate, after holding many hearings throughout rural Alaska on how to improve public safety in the state's most remote communities. The Task Force is chaired by Sen. Donny Olson, D-Nome.

"If the Task Force recommendations are implemented, relief is coming to rural Alaska," said Senator Olson. "The VPSO Task Force did a remarkable job coming up with succinct recommendations to improve public safety in rural Alaska. Public protection is the highest priority of any government and that wasn't happening and our attempt was to guarantee this for all Alaskans."

The Task Force issued a list of findings and recommendations in its report that focused predominately around making improvements that would address the difficulty with recruitment and retention of VPSOs and the resulting impact on public safety in rural Alaska.

The main recommendations from the report are to:

- Increase the pay by approximately \$4.50 per hour (starting pay would go from \$16.55 per hour to \$21 per hour),
- Increase the number of authorized VPSOs by 60 over a four year period.
- Provide a small stipend of \$1,000 per VPSO to each community with a VPSO, to mitigate the cost of maintaining the public safety building and equipment used for public safety purposes in the community.

Other recommendations direct the Department of Public Safety and the regional Non-profits that manage the VPSO contracts to work in collaboration to develop a long range plan, a trauma debriefing

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PB0007

program to support and assist VPSOs after traumatic incidents, to improve the public safety facilities and equipment, and to pursue alternative solutions to the problem of providing acceptable housing for the VPSOs.

Sen. Hollis French, D-Anchorage, Sen. Fred Dyson, R-Eagle River, Walt Monegan, Commissioner of Public Safety, Alaska Attorney General Talis Colberg, Loretta Bullard, President of Kawerak, Inc., and Myron Naneng, President of the Association of Village Council Presidents are also members of the Task Force.

The report, testimony from the hearings and other information used by the Task Force to conclude its report can be found on the Senate Bipartisan Working Group's website at ak.senate.org

For more information, contact Senator Olson at (907) 465-3707.

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PB0008

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From: Monegan, Walt C (DPS)
Sent: Wednesday, January 30, 2008 8:48 PM
To: Rehfeld, Karen J (GOV)
Subject: RE: VPSO Task Report

Thank you, FYI - DPS directors, DC Glass and I have met this afternoon to improve both our inter- and intra- departmental communications.

Karen, you are a hero for heroes; please don't ever think of abandoning us.

I will be there Sun PM to Thurs. PM, can I at least buy you a cup of coffee?
-Walt

-----Original Message-----

From: Rehfeld, Karen J (GOV)
Sent: Wednesday, January 30, 2008 2:33 PM
To: Monegan, Walt C (DPS)
Subject: RE: VPSO Task Report

I have to say yes - only because I know there are MANY things on your list that need attention and additional resources. And, I know there are legislators that want to help, which is a good thing. So, it is the timing and the art of the possible that concerns me. What can we reasonably do to tackle some of these very difficult issues and still maintain the budget discipline the governor is committed to?

Anyway, I know you are sensitive to that also and I appreciated your comments in the news story about the task force and some of the recommendations that were simply too expensive.

So, we just need to keep talking and make sure we are in sync - and you and your folks are working hard to keep me in the loop, which I appreciate!

Thanks! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

-----Original Message-----

From: Monegan, Walt C (DPS)
Sent: Wednesday, January 30, 2008 12:33 PM
To: Rehfeld, Karen J (GOV)
Subject: RE: VPSO Task Report

Have I or DPS caused you concern?
Walt

-----Original Message-----

From: "Rehfeld, Karen J (GOV)" <karen.rehfeld@alaska.gov>
To: "Monegan, Walt C (DPS)" <walt.monegan@alaska.gov>; "Glass, John D (DPS)" <john.glass@alaska.gov>
Cc: "Brown, Joan A (GOV)" <joan.brown@alaska.gov>; "Sutton, Mary C (GOV)" <mary.sutton@alaska.gov>; "Spencer, Danial R (DPS)" <daniel.spencer@alaska.gov>; "Ruaro, Randall P (GOV)" <randall.ruaro@alaska.gov>; "Glick, John R (DPS)" <john.glick@alaska.gov>
Sent: 1/29/2008 6:24 PM
Subject: RE: VPSO Task Report

That would be helpful - and I may not have much fight in me by next week! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Monegan, Walt C (DPS)
Sent: Tuesday, January 29, 2008 2:33 PM
To: Rehfeld, Karen J (GOV); Glass, John D (DPS)
Cc: Brown, Joan A (GOV); Sutton, Mary C (GOV); Spencer, Danial R (DPS); Ruaro, Randall P (GOV); Glick, John R (DPS)
Subject: RE: VPSO Task Report

Karen - Regarding just the VPSO issue, the recommendation for a pay hike is to move the pay from \$16.45 to \$21 @ hr. starting, WITH an annual CPI component. Everyone on the Task Force understood it is contingent upon legislative committee work/approval. I can have someone [Major Glick, that would be you.] work up the figures you request.

Next week I will be in Juneau so I will avail myself to you and your staff on the condition that I only have to fight just one of you at a time...ok?

-Walt

From: Rehfeld, Karen J (GOV)
Sent: Tuesday, January 29, 2008 8:54 AM
To: Monegan, Walt C (DPS); Glass, John D (DPS)
Cc: Brown, Joan A (GOV); Sutton, Mary C (GOV); Spencer, Danial R (DPS); Ruaro, Randall P (GOV)
Subject: VPSO Task Report

Hi Commissioner - with the VPSO task force coming out and all the discussion about reducing/dealing with sexual abuse, what is the plan as we move forward? Do you have some cost estimates for the VPSO recommendations and implementation timelines? I suspect we will be asked what the governor intends to include over and above what we already included in the December budget - As you know, there are significant challenges already with keeping to the governor's overall spending goals.

There is clearly much emphasis/interest in improving public safety which is a good thing - just how best to accomplish some of these things is the question. I know you all have a lot on your plate at the moment so appreciate your thoughts - KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Rehfeld, Karen J (GOV)
Sent: Monday, February 25, 2008 12:12 PM
To: Ruaro, Randall P (GOV)
Cc: Tibbles, Michael A (GOV)
Subject: Letter from DPS

Hi Randy – on the top of my in basket this morning is a Feb. 15 letter from Walt Monegan to Governor Palin supporting a \$1.8 million GF add to the capital budget for the Anchorage Community land Trust that will match \$1.8 million that Rep. Meyer will include in the capital budget. We vetoed this item in FY08. I am stunned and amazed – do you know anything about this? I have been assigned the task of responding but I'm not sure we need anything in writing about this! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

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PB0012

From: Rehfeld, Karen J (GOV)
Sent: Monday, March 03, 2008 7:47 PM
To: Ruaro, Randall P (GOV)
Subject: RE: Feb. 15 letter

Sigh! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Monday, March 03, 2008 12:12 PM
To: Rehfeld, Karen J (GOV)
Subject: RE: Feb. 15 letter

Karen:

I have spoken to Walt, John Glass, and Audie about working through issues internally first several times. Mike Nizich has spoken with them, and COS has spoken directly with the Commissioner. They seem to just not want to accept that concept. Sorry this happened.

Randy

From: Rehfeld, Karen J (GOV)
Sent: Sunday, March 02, 2008 2:32 PM
To: Ruaro, Randall P (GOV)
Subject: FW: Feb. 15 letter

FYI – I never got a chance to call Walt – wanted to get something off to him before he writes any more letters!
KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Rehfeld, Karen J (GOV)
Sent: Sunday, March 02, 2008 2:31 PM
To: Monegan, Walt C (DPS)
Subject: Feb. 15 letter

Hi Walt – I was assigned to respond to your Feb. 15 letter to Governor Palin in support of the \$1.8 million for the Anchorage Community Land Trust project. As you know, we vetoed funding for this

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PAGE 1 OF 2

PB0013

project in FY2008 and we do not have it in the governor's FY09 budget. I understand that this project has considerable support locally, which is very good. At this time, we would prefer to put state funds toward some of our higher priority projects, like the DPS Hanger, the Crime Lab, etc...

With significant pressure to increase the budget, particularly in the area of public safety, for VPSO, sexual offenses, child pornography, the \$1.5 million for the Bethel sleep off center, etc... I just don't see how we can support the \$1.8 million at this time. I will not be drafting a letter for the governor's signature in response to your letter. I expect we will see your letter appear as justification for funding to be included in the capital budget as the legislature makes changes to our budget, which is a bit awkward.

Bottom line is, let's talk about this rather than writing letters to the governor. Thanks! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

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PB0014

From: Rehfeld, Karen J (GOV)
Sent: Sunday, May 04, 2008 6:42 PM
To: Ruaro, Randall P (GOV)
Subject: RE: Staffing meeting

Great – do want you can to keep the lid on this – perhaps we can convince the governor to have a cabinet event in July to have a get real discussion with commissioners on where she wants her administration to go BEFORE we start building the FY2010 budget! Good luck! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Sunday, May 04, 2008 2:38 PM
To: Rehfeld, Karen J (GOV)
Subject: RE: Staffing meeting

Karen:

That's been the problem for the last 6 months. I don't think DPS is working with anyone but themselves and maybe Megan Peters from Channel 2 and Hollis French when it comes to pay raises and the need for more troopers. I have told them 4-5 times to work with OMB first. Mike talked to them as well.

My take on it is Audie is going to push for these things no matter what and if it gets him fired, he doesn't really care because he can retire anytime.

I will write him again, but it is going to take Walt or someone above my pay grade to reign him in, and if someone does reign him in, my guess is he quits.

Randy

From: Rehfeld, Karen J (GOV)
Sent: Sunday, May 04, 2008 2:28 PM
To: Ruaro, Randall P (GOV)
Subject: RE: Staffing meeting

So, is DPS working with Division of Personnel on this as it relates to recruitment? And, from a PR/capacity standpoint, I don't know if we are going to be able to get something from the Criminal justice working group in terms of budget recommendations for the FY2010 budget given that the Lt. Gov is going to be on the campaign trail, etc... but, I wouldn't want DPS getting out in front without knowing how this impacts the other agencies – And, given that the governor is not inclined to want to "grow" government - KJR

Karen J. Rehfeld, Director
Office of Management & Budget

9/12/2008

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PB0015

465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Sunday, May 04, 2008 2:23 PM
To: Rehfeld, Karen J (GOV)
Subject: FW: Staffing meeting

FYI.

From: Holloway, Audie E (DPS)
Sent: Sunday, May 04, 2008 11:58 AM
To: Ruaro, Randall P (GOV)
Subject: RE: Staffing meeting

You will certainly be on the list. It will be available electronically and in a published form. I would like for the gov's staff to have both if you do not mind for ready reference and education. We purposefully stayed away from budget issues, but were very frank and open about our capabilities and why we take so long on responses and investigations. I think you will find it not only statistically informative, but that it is readable and interesting from a PR and recruiting perspective. By the way, the annual drug report for 2007 is already available online on our website and under the heading of ABADE.

Audie

From: Ruaro, Randall P (GOV)
Sent: Sunday, May 04, 2008 11:47 AM
To: Holloway, Audie E (DPS)
Cc: Rehfeld, Karen J (GOV); Kreitzer, Annette E (DOA)
Subject: RE: Staffing meeting

Thanks Audie.

I always look forward to reading the annual report. Can you put me on the mailing list? Hopefully, meth labs are just about down to zero now since the pseudo products were put behind the counter. Is DPS including statements or comments in the 2007 Annual Report related to budget issues?

Randy

From: Holloway, Audie E (DPS)
Sent: Sunday, May 04, 2008 10:38 AM
To: Ruaro, Randall P (GOV)
Subject: Staffing meeting

Good morning Randy,

My assistant, Jessica, is going to be reviewing schedules to set up a meeting on the staffing study. Very early this week, possibly Tuesday, the AST 2007 Annual Report will be finished and available. I think a review of that report would be very helpful for understanding and familiarization prior to the staffing study meeting.

Audie

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PAGE 2 OF 2

PB0016

From: Rehfeld, Karen J (GOV)
Sent: Wednesday, May 07, 2008 9:09 PM
To: Ruaro, Randall P (GOV)
Subject: RE: This morning's meeting

Some amount of the \$12 million is for site prep – I am sure we have that in the backup somewhere – I am thinking \$6 million? KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Wednesday, May 07, 2008 3:27 PM
To: Rehfeld, Karen J (GOV)
Subject: RE: This morning's meeting

Karen:

I FEEL YOUR PAIN! DPS is constantly going off the reservation.

They also did not do a good job selling the crime lab. No pictures of drawings of what would actually be in the crime lab, just assertions that they needed everything and it would cost \$100 million. Now that they have some design money, perhaps they can get a concept on paper, and explain to legislators what everything is that needs to go into the crime lab, show them how it fits in the design of the building, etc.

A good question might be how much of the \$12 million appropriation for the crime lab design is actually needed to produce a design? If it is \$2-3 million, do we reduce the appropriation?

Randy

From: Rehfeld, Karen J (GOV)
Sent: Wednesday, May 07, 2008 2:10 PM
To: Ruaro, Randall P (GOV)
Cc: Nizich, Michael A (GOV)
Subject: RE: This morning's meeting

We need a cabinet level budget discussion/retreat thing AFTER we get through special session – Walt told me he has already talked to Dan Fauske about AHFC financing and constructing the crime lab – says it will be cheaper than going through DOTPF! He also said he needed to talk with Galvin about financing options. In any case, I don't mind these guys talking with other commissioners, but the bottom line is that we need a much better defined project and cost estimates and a coordinated approach to the financing and how that fits into our long-range budget plan, etc..... geez! KJR

Karen J. Rehfeld, Director
Office of Management & Budget

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PB0017

465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Wednesday, May 07, 2008 11:44 AM
To: Rehfeld, Karen J (GOV)
Cc: Nizich, Michael A (GOV)
Subject: RE: This morning's meeting

Karen:

I agree. I think for now, Audie is content to work through the retention and recruitment group that Commissioner Kreitzer is heading up. It is hard to say though, he goes public with things now and then and never tells anyone. I do not believe the Criminal Justice Working Group is taking up this issue but it would not surprise me if Walt raised this issue with them or anyone else at anytime, anywhere.

I think at various times, both Mike Nizich and Mike Tibbles and I have told Walt, Audie, and John Glass not to work this way. It doesn't seem to sink in very well. Is working through the recruitment and retention group, then OMB and getting Governor approval on budget issues BEFORE going public a topic that could be mentioned at the next cabinet meeting without directing it only at DPS?

Randy

From: Rehfeld, Karen J (GOV)
Sent: Wednesday, May 07, 2008 10:56 AM
To: Ruaro, Randall P (GOV); Sutton, Mary C (GOV)
Cc: Nizich, Michael A (GOV)
Subject: RE: This morning's meeting

Will need to keep Dan Spencer in the loop also – the whole discussion about vacant positions, and the funding needed based on successful trooper academies could be interpreted as conflicting with this discussion. 125 troopers X \$\$\$\$ per trooper is a lot of money. And, I don't know where this fits with the work of the Criminal Justice Planning Group and the broader budget implications across various departments. So, bottom line for me is that this cannot be done in isolation and a press release should not be issued regarding the need for 25 troopers a year for 5 years in order to "do their job". Thanks! KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Wednesday, May 07, 2008 7:53 AM
To: Sutton, Mary C (GOV)
Cc: Rehfeld, Karen J (GOV); Nizich, Michael A (GOV)
Subject: RE: This morning's meeting

Mary:

The ultimate outcome was that Colonel Audie Holloway from DPS confirmed he is working on a staffing study. The study is being created internally by DPS employees and Colonel Holloway. He said that the study will

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PB0018

probably say the troopers cannot do their jobs right now (A conclusion that is highly subjective and depends who you are asking and how they define "doing their job") and that DPS needs a net of 25 new troopers a year for 5 years to get to a point where they can "do their job".

I am not sure how Audie's staffing study is going to take into consideration the roughly 40 vacant authorized trooper positions in DPS right now that they are having trouble filling because of the difficulty in recruiting.

If you assume the study is correct, (An assumption I have some serious questions about) DPS needs a net 25 new troopers each year for 5 years. Because DPS currently has about 40 positions authorized but unfilled, one could say that DPS only needs 5 new positions in FY 2010 and 5 new positions in FY 2011 to have 50 positions that could be filled by new troopers. The problem is not adding new positions to the budget, just filling the positions DPS has on the books but are vacant.

The Governor asked that the staffing study be conducted under the umbrella of the recruitment and retention working group created by her Administrative Order. The Governor and OMB (yourself and Karen) should also be fully briefed before any report is made final and released. Commissioner Kreitzer was in on the teleconference yesterday morning and agreed this study will be part of the work done by her group.

I do not know the timing of things, but when the study is released could be as important as the findings of the study, since the PSEA will be voting on a tentative agreement in the next 30-60 days.

Randy

From: Sutton, Mary C (GOV)
Sent: Tue 5/6/2008 4:17 PM
To: Ruaro, Randall P (GOV)
Subject: This morning's meeting

Randy,

I was sorry to miss this morning's DPS meeting. I was out of the office all day yesterday and until noon today. Are there any documents, notes, etc. you can share?

Mary Sutton
Office of Management & Budget
Phone: 907-465-4698
Fax: 907-465-2090

9/12/2008

PB0019

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From: Rehfeld, Karen J (GOV)
Sent: Thursday, June 26, 2008 8:20 PM
To: Ruaro, Randall P (GOV)
Cc: Nizich, Michael A (GOV)
Subject: RE:

This is exactly the type of program that needs to be discussed internally – If the governor decides that we should go down this road and that we understand the impact on the other agencies involved, and the cost of sex offender treatment or whatever else needs to go along with this – we would be considering this in our budget for FY2010 and requesting federal earmark dollars to help. Is Walt trying to seek existing competitive grant funds through a federal agency for this project?

This gets back to focus – what are their priorities? What can we reasonably do over the next few years?

Just as the discussion with DOTPF on timing for assistance from the delegation for federal help with vessel replacement, this would have to be coordinated – and this is an operating program not capital –

I don't know who all will be at the crime lab meeting next week – but these guys really need to focus in on what is they really need to do and get to those core services before we strike out on some new program - KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Thursday, June 26, 2008 3:43 PM
To: Rehfeld, Karen J (GOV)
Cc: Nizich, Michael A (GOV)
Subject:

Karen:

Walt and DPS want to make a trip back to DC in the end of July to work with Katz and see if the delegation could provide assistance to get funding for Audie's statewide plan to bring in 30-40 non-perm / long term (5 years?) hires of old ex-troopers, judges, prosecutors, public defenders etc., for work on sexual assault cases. The estimated costs from all agencies runs over \$10 million dollars a year and may be closer to \$20 million.

When I mentioned DPS's idea to the Governor back in May she did not want this to move forward until after DPS had presented her all the estimated costs and a plan for how it would be funded.

I have been pressing DPS to pursue a much scaled back alternative that would have only 4 non-perm / long term former trooper positions in the budget to work as a mobile sexual assault team that could work in different areas of the state. The fiscal cost would be a lot lower, probably around \$1 million a year. I have also asked DPS to look at its current budget to see if funds could be used from currently budgeted positions that it cannot fill. Someone at DPS said they had around 37 vacant positions.

Can I tell DPS that if they go to DC they have to work through John Katz when speaking to the delegation with either John or Russ present and that they cannot seek more than \$500,000 federal funding through an earmark for a 4 trooper mobile sexual assault unit.

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PB0020

Karen / Mike:

I don't know how the budget works that well. But with 37 vacancies in their current budget, can't DPS pay for at least part of a this sexual assault initiative and a 4 person mobile unit through existing funds this year, or if the vacancies carryover into next year, from their next year's operating budget base?

Randy

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PB0021

From: Rehfeld, Karen J (GOV)
Sent: Friday, June 27, 2008 12:31 PM
To: Ruaro, Randall P (GOV); Nizich, Michael A (GOV)
Subject: RE:

DPS got themselves into a bit of a bind with the legislature because they were using unspent personal services funds to address a variety of other items, such as fuel, supplies, equipment, etc... and then arguing they didn't have enough money to fill their positions. Their inability to recruit for and complete successful trooper academies has been a real concern. Now, apparently, they have had a couple of successful academies so they may actually be filling some of those vacant positions.

So, in theory IF they did not spend personal services money it would lapse to the GF - however, they have moved it and spent it in other lines in the past. As part of our "savings plan" they may want to use any unspent personal services money toward the target.

They COULD use existing positions and redirect resources to the sex offender project. I do not know to what extent they discussed this with the legislature who might take a dim view of them starting some other initiative that the legislature did not weigh in on. Especially if we come back next year highlighting this project or requesting more money for it - so, timing and communication would be important.

Mary is checking on some of the other budget questions you raised - KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov
-----Original Message-----
From: Ruaro, Randall P (GOV)
Sent: Friday, June 27, 2008 8:20 AM
To: Nizich, Michael A (GOV)
Cc: Rehfeld, Karen J (GOV)
Subject: RE:

Right.

When an agency has been funded for positions, but the positions remain vacant for the whole year, I assume the money lapses back to the general fund if the agency does not spend it for some other item.

But for the next year, since the positions are part of the base budget, couldn't DPS just allocate 4 of their 37 unfilled positions to the possibly new mobile sex assault unit and not need any new funding, either state or federal, at all?

Randy

Karen:

Are my assumptions right?

-----Original Message-----
From: Nizich, Michael A (GOV)
Sent: Friday, June 27, 2008 8:09 AM
To: Ruaro, Randall P (GOV)
Subject: Re:

Given where we are going with the budget DPS needs to look at the 37 vacant trooper positions. 'Aren your thoughts

----- Original Message -----
From: Ruaro, Randall P (GOV)
To: Rehfeld, Karen J (GOV)
Cc: Nizich, Michael A (GOV)
Sent: Thu Jun 26 15:43:05 2008
Subject:

Karen:

Walt and DPS want to make a trip back to DC in the end of July to work with Katz and see if the delegation could provide assistance to get funding for Audie's statewide plan to bring in 30-40 non-perm / long term (5 years?) hires of old ex-troopers, judges, prosecutors, public defenders etc., for work on sexual assault cases. The estimated costs from all agencies runs over \$10 million dollars a year and may be closer to \$20 million.

When I mentioned DPS's idea to the Governor back in May she did not want this to move forward until after DPS had presented her all the estimated costs and a plan for how it would be funded.

I have been pressing DPS to pursue a much scaled back alternative that would have only 4 non-perm / long term former trooper positions in the budget to work as a mobile sexual assault team that could work in different areas of the state. The fiscal cost would be a lot lower, probably around \$1 million a year. I have also asked DPS to look at its current budget to see if funds could be used from currently budgeted positions that it cannot fill. Someone at DPS said they had around 37 vacant positions.

Can I tell DPS that if they go to DC they have to work through John Katz when speaking to the delegation with either John or Russ present and that they cannot seek more than \$500,000 federal funding through an earmark for a 4 trooper mobile sexual assault unit.

Karen / Mike:

I don't know how the budget works that well. But with 37 vacancies in their current budget, can't DPS pay for at least part of a this sexual assault initiative and a 4 person mobile unit through existing funds this year, or if the vacancies carryover into next year, from their next year's operating budget base?

Randy

From: Rehfeld, Karen J (GOV)
Sent: Thursday, July 03, 2008 4:52 PM
To: Ruaro, Randall P (GOV)
Subject: RE: DPS - Sexual Assault Initiative

OK – you guys are getting too much into the budget weeds! Bottom line is Walt has a lot of vacant positions – he's used that money over the years to fund other stuff – it caught up with him – we asked for more money going into FY09 to cover their personal services costs based on the expectation they would fill positions – they have not – so, back to the same position, he may have to hold some open to help with his savings target and he might fill a few to do sexual assault work. If we need more detailed budget questions answered, we should ask the agency to produce it – it would be more current than what we have in the budget documents. KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: Ruaro, Randall P (GOV)
Sent: Thursday, July 03, 2008 12:38 PM
To: Rehfeld, Karen J (GOV)
Subject: FW: DPS - Sexual Assault Initiative

Just and FYI for you and I.

Randy

From: Kim, Anna C (GOV)
Sent: Thursday, July 03, 2008 12:21 PM
To: Ruaro, Randall P (GOV)
Subject: RE: DPS - Sexual Assault Initiative

One more thing –

If Mary can provide the personal services connected with the approx 56 position left vacant that would help too.

Anna Clark Kim
Special Staff Assistant
Office of the Governor

From: Ruaro, Randall P (GOV)
Sent: Thursday, July 03, 2008 11:55 AM
To: Kim, Anna C (GOV)
Subject: FW: DPS - Sexual Assault Initiative

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PB0024

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Importance: High

Anna.

Please translate and let me know what further questions need to be asked to get to a bottom line of what dollar amount of existing budget resources does Walt have now to do something in the area of hiring troopers to work on sexual assaults?

Randy

From: Sutton, Mary C (GOV)
Sent: Thursday, July 03, 2008 11:51 AM
To: Ruaro, Randall P (GOV); Rehfeld, Karen J (GOV)
Cc: Brown, Joan A (GOV)
Subject: RE: DPS - Sexual Assault Initiative
Importance: High

Questions are answered in the text below in red. Let me know if you need more information.
Mary

From: Ruaro, Randall P (GOV)
Sent: Wednesday, July 02, 2008 11:12 AM
To: Rehfeld, Karen J (GOV)
Cc: Sutton, Mary C (GOV)
Subject: DPS - Sexual Assault Initiative

Karen:

Please keep this e-mail internal with OMB and do not forward onto Dan Spencer at DPS.

Regarding the proposal by Commissioner Monegan to request \$10 - \$15 million in new gf for FY 2010 through FY 2015 to hire 30 new troopers to be stationed all over the state investigating only sexual assaults, I believe we need to know what existing resources Commissioner Monegan has available to him as part of his base budget.

How many trooper positions are authorized in the budget right now? 284 troopers, 10 corporals, 65 sergeants, 23 lieutenants, 10 captains, 3 majors

How many of these trooper positions are unfilled? 49 troopers, 2 corporals, 1 sergeant, 3 lieutenants, 1 captain, 0 majors had no AKPAY data as of June 30, 2008. This information would not include new hires whose paperwork hadn't processed through Personnel or those who may be resigning/quitting/retiring/etc. whose paperwork had not been processed. This is the most recent information available to me without going to the department.

Where are the dollars going that are budgeted to pay for these positions? In FY08 DPS had with numerous supplemental requests, over \$2 million of which were needed since vacancy rate was coming down and personal services funding wouldn't be available to cover those costs (prisoner transport, rural trooper housing, trooper move, vehicle costs, lease costs, etc). Most of those requests were funded short of the requested amounts. For instance, the funding approved by the legislature for additional fuel and utility funding came in at slightly over half of what DPS requested. I can get you more detailed information on that if you wish, but probably not before this afternoon's meetings.

Why can't Walt use some or all of the dollars for these budgeted but vacant positions to hire troopers and assign them to work on sexual assaults? He potentially could. Remember, though, that the DPS share of the \$20 million savings is \$2.3 million and these vacant positions could have a role in that plan

What line item transfers is DPS making from personal services to non-personal services? Spreadsheet is attached.

I have no idea what resources are presently available to DPS now that could be used to achieve all or part of the goal. Please help me find out.

Randy

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PB0025

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From: Rehfeld, Karen J (GOV)
Sent: Monday, July 07, 2008 12:01 PM
To: Katz, John W (GOV); Ruaro, Randall P (GOV)
Cc: Kim, Anna C (GOV); Makin, Aneet S (GOV)
Subject: RE: S.1200 - Reauthorization of the Indian Health Services Act

My two cents is that this needs to be communicated to Walt (again) from someone he will listen to. Randy and I spent an hour on the phone with him last week and I do not believe he was receiving our message at all. I am not convinced that vertical prosecution will ultimately change the behavior that is causing this deplorable situation to exist. KJR

Karen J. Rehfeld, Director
Office of Management & Budget
465-3568

karen.rehfeld@alaska.gov

From: John Katz [mailto:jwkatz@ALASKADC.org]
Sent: Monday, July 07, 2008 6:56 AM
To: Ruaro, Randall P (GOV)
Cc: Kim, Anna C (GOV); Rehfeld, Karen J (GOV); Makin, Aneet S (GOV)
Subject: RE: S.1200 - Reauthorization of the Indian Health Services Act

Regarding a possible trip by the Commissioner. I see two problems. The first is that we don't have internal alignment, and that's always a prerequisite to bringing an issue to DC.

Second, a request for funding at this time is out of sequence with our other appropriations requests and could put a strain on the evolving relationship between the Governor and Senator Stevens. This is especially true if State funds might be available for a scaled down version. Also, Congress and the Congressional delegation are moving away from funding internal domestic programs. In the current situation, we should be exploring the possibility of grants from the Justice Department.

I think this is important enough on substantive and strategic grounds that it might be worth a session involving Mike Nizich and the rest of us. The purpose would be to develop a consensus on how to proceed and to determine whether the proposal is consistent with the Governor's objective that Alaska become more self-sufficient.

Since this involves DC, I could talk to the Commissioner and/or Mike Nizich but will defer to you on how we should proceed. Thanks for bringing this matter to our attention.

John W. Katz

9/12/2008

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PB0026

Director of State/Federal Relations
and Special Counsel to the Governor
jwkatz@alaskadc.org
(202)624-5858

>>> On 7/7/2008 at 10:10 AM, in message
<26E753999AE091438533E36232EBBCB3BC1F72@SOAJNUMSG01.soa.alaska.gov>
"Ruaro, Randall P (GOV)" <randall.ruaro@alaska.gov> wrote:

Thanks John.

S.1200

It's been some time since I read it, but I believe the provisions are very short language sections that would require IHS clinics to offer a child abuse treatment program and give discretion to IHS to offer an adult program. Statistics from a 2001 survey by Bernard Segal, now the Director of Health Services for UAA, showed that nearly 90% of native women entering treatment for substance abuse in a Fairbanks clinic had been physically or sexually abused before the age of 13 in their home and that 70% of these acts occurred after the perpetrator had been drinking. Increasing the amount of education and treatment programs at IHS facilities for abuse could be very helpful to Alaskans. If the bill stays as it was when I read it, and the adult programs are left to the discretion of the secretary, we may want to figure out a plan to urge the Secretary to exercise that discretion to set up some of these programs in Alaska facilities.

Tribal Justice Act

I am not familiar with this bill, but will try to read up on it when I get some time.

Commissioner Monegan's Trip to DC

I believe Commissioner Monegan intends to approach the Congressional delegation about federal funding for at least part of his sexual assault statewide initiative. Walt's "vertical prosecution" plan is to hire back roughly 30 former troopers to work only on sexual assaults in Alaska. Persons arrested would be prosecuted, defended, and tried by additional new attorneys and judges dedicated to prosecuting sexual assaults. He envisions this plan as relieving much of the workload on current troopers and resulting in about 30 new arrests a year. He does not have OMB's approval to pursue this plan. Despite this fact, Commissioner Monegan has made the plan at least partially public by talking to the delegation on previous trips (Liz Cannell) and reps of certain native organizations.

John. I am skeptical of several points of the Commissioner's statewide plan and I am not convinced that putting funds into more troopers is more effective than trying to partner with IHS and native organizations on education, prevention, and treatment programs. I have been urging the Commissioner to pursue a much scaled back version of this statewide plan and pursue a mobile unit of 4-6 troopers that could move around the state and help line troopers with sexual assault investigations. Since Walt has 56 vacant positions, I feel he should be

9/12/2008

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PB0027

able to hire troopers for the mobile unit from existing funds and set up this unit administratively. He disagrees.

Randy

From: John Katz [mailto:jwkatz@ALASKADC.org]
Sent: Mon 7/7/2008 4:58 AM
To: Ruaro, Randall P (GOV)
Cc: Rehfeld, Karen J (GOV); Makin, Aneet S (GOV)
Subject: Re: S.1200 - Reauthorization of the Indian Health Services Act

The amendments to the Indian Health Care Improvement Act have passed the Senate and are pending on the House calendar. Aneet, could you advise Randy on the specific provisions he mentioned.

Randy, if further amendments are necessary, we will need to look beyond the current legislation. The Indian Health Care Improvement Act is no longer in a parliamentary situation that is amenable to major changes.

We have been looking at the Tribal Justice Act to work on Alaska specific provisions in the areas of sexual assault and otherwise. That legislation is in an early phase. While it applies to tribes located in Indian country, we have been told that Alaska provisions might be possible. Accordingly, we have opened a dialog with public safety and Health and Social Services.

If possible, I'd like to get more information about Commissioner Monagan's potential trip to DC. We could contact him directly or work through you.

If he intends to approach the Congressional delegation, this should be carefully planned. It is late in the appropriations process to suggest new budget requests. Also, relations with Senator Stevens have improved significantly, and I don't want to do anything that jeopardizes that.

If the Commissioner intends to approach the Justice Department, we will need a careful plan. There is quite a history there. Justice is mainly geared to deal with tribes in Indian country. We have made progress in obtaining federal funds from their programs. But, further homework, including some preliminary contacts, would probably be required.

Let's stay in touch on both issues.

John W. Katz
Director of State/Federal Relations
and Special Counsel to the Governor
jwkatz@alaskadc.org
(202)624-5858

9/12/2008

PB0028

EXHIBIT M
PAGE 3 OF 4

>>> On 7/6/2008 at 2:54 PM, in message
<26E753999AE091438533E36232EBBCB3C36F9C@SOAJNUMSG01.soa.alaska.g
"Ruaro, Randall P (GOV)" <randall.ruaro@alaska.gov> wrote:

John:

Would it be possible to get an update on the status of S.1200 or any other bill / vehicle for reauthorizing the Indian Health Service Act? It had some provisions in it about IHS centers developing new treatment programs for assaults on children and victims of sexual assault that I was tracking.

Also, as an FYI, Commissioner Monegan may be traveling to DC at the end of the month. He is pursuing his statewide plan to add 30 retired troopers to take over sexual assault investigations from existing troopers. We met with Karen Rehfeld last week. He does not have a green light on this initiative as we want to vet it with other agencies involved, and review whether putting the funding into troopers would get the best results as opposed to DHSS and new treatment and education programs.

Randy

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PAGE 4 OF 4

PB0029

From: Nizich, Michael A (GOV)
Sent: Saturday, July 12, 2008 4:27 PM
To: Monegan, Walt C (DPS)
Subject: RE: DPS Commissioner

From: Monegan, Walt C (DPS)
Sent: Saturday, July 12, 2008 12:08 PM
To: Colberg, Talis J (LAW); Bishop, Clark C (DOL); Campbell, Craig (MVA); Galvin, Patrick S (DOR); Hartig, Lawrence L (DEC); Irwin, Tom E (DNR); Hogan, William H (HSS); Kreitzer, Annette E (DOA); Lloyd, Denby S (DFG); Notti, Emil R (CED); Schmidt, Joseph D (DOC); Von Scheben, Leo (DOT)
Cc: Nizich, Michael A (GOV); Glass, John D (DPS)
Subject: DPS Commissioner

Effective yesterday afternoon, I have been replaced as the Commissioner of DPS. The Acting Commissioner is John Glass whom you will find to be knowledgeable, experienced, upfront, true to his word, and man of integrity. Please welcome him as you each had welcomed me.

I have enjoyed working with all of you, and that includes you too, Annette. You are men and women skilled and committed to helping the Boss in making life better for all Alaskans. Given the gathering storm of a questionable fishing season and the escalating price of fuel in our state, there will be serious stress placed upon communities and residents who will struggle with the coming winter's challenges. Last week I had asked our Troopers and Fire Marshals to outreach both to these communities and to your departments in a cooperative effort to mitigate issues that will arise like: theft; domestic violence; substance abuse; suicide; and, accidental death; that all can come from sinking reserves of fuel, money, and hope. Teamwork will never be so important.

Finally, we all know the Governor is swamped in a myriad of demands and primarily focused on AGIA, but I urge all of you to seek those few minutes to communicate your issues with her. All relationships are based upon communications; I have known and said this for years, yet I stood back because I hadn't wanted to add to her concerns. For anyone to lead effectively they must have the support of their team, and I had waited too long outside her door for her to believe that I supported her. Please, choose a different path.

Thank you again for accepting me, and for being the men and women that "lean forward" in the service of Alaska.
-Walt

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PB0030

Michael Wooten

March 1, 2006

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containers of alcohol in the vehicle while driving. Your conduct in this incident demonstrates a lack of good character, and a disregard for the law you are sworn to uphold. If you had been involved in an

incident or an accident immediately following this event, your actions would have not only involved criminal liability, but also exposed the Department to great discredit, embarrassment and additional civil liability. Of greater importance is the fact that because of your actions, the integrity of every other State Trooper is in question. This is unacceptable.

To gain a complete understanding of how the aforementioned sustained violations relate to your performance with the Alaska State Troopers, I have reviewed your personnel file and identified the following actions:

- 12-27-01 **Warning** for filing personal documents written on DPS report forms with the Court in reference to a personal issue;
- 1-5-04 **Reprimand** for negligent damage to a state vehicle;
- 1-24-05 **Instruction** in reference to driving complaints of speeding, unsafe lane changes, following too closely, and not using turn signals while operating a state vehicle;
- 4-14-05 **Instruction** for being absent without leave;
- 6-24-05 **Instruction** for reimbursement for personal cell phone calls;
- 10-12-05 **Suspension** for violation of traffic law;
- 11-16-05 **Memorandum of Expectations** to clarify duty hours, tardiness and personal business during duty time.

The history noted above indicates a significant pattern of judgment failures, during which you have repeatedly shown yourself incapable or unwilling to maintain a demeanor demonstrating or embracing departmental expectations for your proper and appropriate conduct. The history bears out your failure to change or correct your behavior or your inability to behave according to our canons of police ethics and rules of conduct. Your unacceptable conduct appears to have continued and even escalated. The findings of the administrative investigation indicate that in addition to the events addressed above, that activity sustained in the investigation was occurring concurrently. The record clearly indicates a serious and concentrated pattern of unacceptable and at times, illegal activity occurring over a lengthy period, which establishes a course of conduct totally at odds with the ethics of our profession.

The Alaska Department of Public Safety expects that employees will hold themselves to the highest professional and personal standards, on and off duty. As a state trooper, you are expected to exhibit conduct that instills public and professional confidence in the integrity of our organization. The events and behavior sustained during this Administrative Investigation not only brings discredit to the department by having a trooper violate law, but also documents a continued course of conduct rife with poor judgment and violation of policy. It is nearly certain that a civilian investigated under similar circumstances would have received criminal sanctions. These events are unacceptable, constitute a gross deviation from our department's standards, and will not be tolerated.

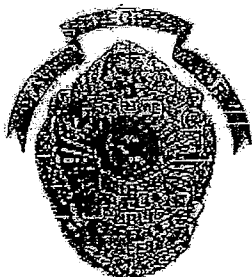
Based on the totality of this review and your past history, you will be suspended for ten-working days. You are hereby suspended on March 6, 2006 through March 17, 2006.

During your period of suspension, you are to turn in your duty weapons, Taser, SERT gear and credentials. You will be prohibited from driving a state vehicle and shall have no authority of office (OPM 111.070 (D)(E)).

This discipline is meant to be a last chance to take corrective action. The Department views your continued misconduct and the violation of the Law and OPM sections to be very serious. You are hereby given notice that any further occurrences of these types of behaviors or incidents will not be tolerated and will result in your termination. You must comply with the Law, the OPM and direction given you.

Office of the Director

5700 East Tudor Rd. - Anchorage, AK 99507 - Voice (907) 269-5511 - Fax (907) 337-2059



State of Alaska

Department of Public Safety
Division of

Alaska State Troopers

Frank Murkowski, Governor
William Tandeske, Commissioner

March 1, 2006

Investigator Michael Wooten
Wildlife Investigations Unit
Alaska Bureau of Investigation
5700 E. Tudor Road
Anchorage, AK 99507

Re: Suspension

Dear Investigator Wooten:

On April 11, 2005, an administrative investigation was initiated regarding allegations of improper conduct committed over a two-year period that occurred between yourself and various members of your immediate and extended family. I have reviewed the entire file, to include the "Memorandum of Findings", all recordings and interviews conducted in this administrative investigation. The pertinent sections that were sustained include the following:

OPM 101.070(A)	Unbecoming Conduct (three incidents)
OPM 101.070(B)	Personal Conduct (three incidents)
OPM 101.060(F)	Failure to Perform Duties Properly, Use of Government Property (one Incident)
OPM 101.070(C)	Conformance to Laws (two incidents)
OPM 101.070(F)	Use of Alcohol (one incident)
OPM103.030(A)	Operation to be prudent and lawful (one incident)

A summary review of the circumstances sustaining these violations include the following:

- Using a Taser on your ten-year-old stepson, Payton (in a training capacity);
- Shooting a cow moose to fill a permit issued to your wife Molly, in violation of statute; and
- Drinking beer before, and subsequently during the operation of a marked Alaska State Trooper patrol vehicle.

The judgment you have demonstrated and the choices you have made during these violations is of grave concern. The use of your department issued Taser on a ten-year old child, your stepson, Payton demonstrated extremely poor judgement and a conscience choice you made to violate the department's standards of conduct. You have been entrusted by the department not only to be responsible in handling and deploying your own issued Taser when dealing with the public, but, further, as a Taser instructor, you have been well trained in the application and risks associated with use of the weapon on a child. During this investigation, you admitted to using your department issued Taser on Payton, which is a clear violation of policy.

This event is not mitigated by the fact that it occurred within your immediate family. In addition to any expectation he had as member of your household, he is also a member of the general public and as such, will likely now have a diminished view of the department and you as a representative of the

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department. This is unacceptable. Your lapse of proper judgement and unacceptable conduct is very serious in nature and on it's own, this matter warrants corrective action.

The issue of the wildlife violation has even deeper ramifications. As a hunter and certainly, a law enforcement officer you knew or should have known the conditions for the drawing permit and the hunt. The fact that you are currently assigned as a *wildlife crimes* investigator exponentially exacerbates this violation as it is absolutely contrary to your current assignment. During the investigation, you maintained that these actions were not inappropriate, and that you didn't consider these actions a violation of the law.

A review of the appropriate administrative code for this violation (5AAC 92.050(a)(5) states: **(5) except as provided in (6) of this subsection, a permit is nontransferable....** In addition, Alaska statute 16.05.420 (C) states: **(c) A person to whom a license, tag, or sport fishing vessel registration has been issued under this chapter may not alter, change, loan, or transfer the license, tag, or sport fishing vessel registration. A person may not use a license, tag, or sport fishing vessel registration that has been issued under this chapter to another person.** Based on the facts presented the investigation, there is no question that you violated these provisions, and in fact committed an unclassified misdemeanor offense. During our conference on 2-9-06, you finally did admit that the conduct was illegal. On its own, your conduct in this matter warrants corrective action.

In response to your lapse in judgement and improper conduct, you will be reassigned from the Wildlife Investigations Unit (WU). Effective immediately, you will be reassigned to the Anchorage Services Unit

In June/July 2004, you stopped at the home of acquaintances of yours, Adrian and Marilyn Lane. They live in your same subdivision and on one occasion you pulled your marked trooper vehicle into their driveway. According to the statement of Adrian Lane, you walked into their garage, engaged in some social conversation and then went to a refrigerator located in his garage and helped yourself to a beer. Mr. Lane stated that he saw you drink the first beer and then state that you had to go, but that before you left you helped yourself to a second beer. He said you opened the beer and got into your marked trooper vehicle carrying the beer and drove away.

Marilyn Lane stated that on this same occasion, she walked into the garage after you had arrived and although she did not see you get the first beer, she saw you drinking a beer and engaging in social conversation with her husband Adrian. She further stated that she left the garage and came back a little later, and at that time observed you with an open beer in your hand. She said that she saw you get into your marked trooper vehicle with the beer in hand, still chatting and drive away.

Mr. and Mrs. Lane both stated that they were amazed that you would drink a beer and drive your trooper vehicle, and stated that they discussed with each other the fact that it was inappropriate and that you had better watch out or you could get into trouble. The Lanes recounted this story only after being asked about the incident by Sgt. Wall. I was concerned about this incident and conducted a follow-up interview with the Lanes. They stated to me, that they liked you and had been friends of the Heath family for years and for that reason, they did not report it to anyone. They also stated to me that under no circumstances would they ever be untruthful about their observations of you that day, and that their prior relationship with the Heath family did not have any influence over their statements.

The issue of drinking alcoholic beverages (beer) prior to operating, and then during the operation of a marked patrol vehicle not only exposed the Department to liability, but further demonstrates your lack of judgement and a profound disrespect for the responsibilities of a law enforcement officer. We as police officers are held to a higher standard of conduct and duty than the average citizen. We routinely contact and prosecute those who are either driving under the influence or who have open

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containers of alcohol in the vehicle while driving. Your conduct in this incident demonstrates a lack of good character, and a disregard for the law you are sworn to uphold. If you had been involved in an

incident or an accident immediately following this event, your actions would have not only involved criminal liability, but also exposed the Department to great discredit, embarrassment and additional civil liability. Of greater importance is the fact that because of your actions, the integrity of every other State Trooper is in question. This is unacceptable.

To gain a complete understanding of how the aforementioned sustained violations relate to your performance with the Alaska State Troopers, I have reviewed your personnel file and identified the following actions:

- 12-27-01 **Warning** for filing personal documents written on DPS report forms with the Court in reference to a personal issue;
- 1-5-04 **Reprimand** for negligent damage to a state vehicle;
- 1-24-05 **Instruction** in reference to driving complaints of speeding, unsafe lane changes, following too closely, and not using turn signals while operating a state vehicle;
- 4-14-05 **Instruction** for being absent without leave;
- 6-24-05 **Instruction** for reimbursement for personal cell phone calls;
- 10-12-05 **Suspension** for violation of traffic law;
- 11-16-05 **Memorandum of Expectations** to clarify duty hours, tardiness and personal business during duty time.

The history noted above indicates a significant pattern of judgment failures, during which you have repeatedly shown yourself incapable or unwilling to maintain a demeanor demonstrating or embracing departmental expectations for your proper and appropriate conduct. The history bears out your failure to change or correct your behavior or your inability to behave according to our canons of police ethics and rules of conduct. Your unacceptable conduct appears to have continued and even escalated. The findings of the administrative investigation indicate that in addition to the events addressed above, that activity sustained in the investigation was occurring concurrently. The record clearly indicates a serious and concentrated pattern of unacceptable and at times, illegal activity occurring over a lengthy period, which establishes a course of conduct totally at odds with the ethics of our profession.

The Alaska Department of Public Safety expects that employees will hold themselves to the highest professional and personal standards, on and off duty. As a state trooper, you are expected to exhibit conduct that instills public and professional confidence in the integrity of our organization. The events and behavior sustained during this Administrative Investigation not only brings discredit to the department by having a trooper violate law, but also documents a continued course of conduct rife with poor judgment and violation of policy. It is nearly certain that a civilian investigated under similar circumstances would have received criminal sanctions. These events are unacceptable, constitute a gross deviation from our department's standards, and will not be tolerated.

Based on the totality of this review and your past history, you will be suspended for ten-working days. You are hereby suspended on March 6, 2006 through March 17, 2006.

During your period of suspension, you are to turn in your duty weapons, Taser, SERT gear and credentials. You will be prohibited from driving a state vehicle and shall have no authority of office (OPM 111.070 (D)(E)).

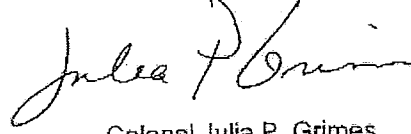
This discipline is meant to be a last chance to take corrective action. The Department views your continued misconduct and the violation of the Law and OPM sections to be very serious. You are hereby given notice that any further occurrences of these types of behaviors or incidents will not be tolerated and will result in your termination. You must comply with the Law, the OPM and direction given you.

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Sincerely,



Colonel Julia P. Grimes
Director

cc: Commissioner William Tandeske, DPS
Assistant Commissioner Gretchen Pence, DPS
PSEA
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